

Vote NO on White House / Wilson Wiretap Expansion Bill (H.R. 5825)

September 28, 2006

Dear Colleague:

Later today the House is expected to take up legislation that would radically rewrite the Foreign Intelligence Surveillance Act (FISA) and vastly expand the Administration's ability to wiretap innocent Americans.

We support strong, flexible tools to intercept the communications of terrorists, track their whereabouts and disrupt their plots. We have also supported common sense updates to FISA, which has been modernized in at least a dozen significant ways since 9/11 at the request of the Bush Administration.

We cannot, however, support legislation that not only fails to bring the warrantless surveillance program within the law, but dramatically expands the Administration's authority to conduct warrantless surveillance on innocent Americans.

The following is a list of concerns we have identified concerning this very dangerous legislation:

- **Does Not Rein In President's Warrantless Surveillance Program.** – The legislation does not limit the President's power to conduct warrantless surveillance on innocent Americans. The legislation does not reiterate that FISA is the exclusive means for the government to conduct surveillance.
- **Grants the Administration New Authority to Conduct Warrantless Surveillance on International Calls by American Citizens.** – The legislation alters the definition of "electronic surveillance" to permit the warrantless surveillance of international communications of any American who communicates with someone outside the U.S.
- **Grants the Administration New Authority to Conduct Warrantless Surveillance on Domestic Calls by Americans and to Enter Their Homes Without Search Warrants.** – These new authorities are granted after an "armed attack" on the U.S., a "terrorist attack" upon the U.S., or in anticipation of an "imminent threat," all of which are undefined in the bill. None of these new authorities are subject to court review and the wiretapping authority after a terrorist attack and in anticipation of an imminent threat are renewable indefinitely without court review.
- **Grants the Administration new Authority to Conduct Data Mining and other Surveillance on Innocent Americans without Court Approval.** – The legislation grants the Administration new authority to conduct various forms of non-wiretap surveillance – such as reviewing call records and other stored communications – on innocent U.S. citizens, as long as one of the targets is "reasonably believed to be outside of the United States." The legislation also grants the government authority to maintain permanent

records on innocent U.S. citizens based on previous surveillance.

- Grants the Administration New Authority to Demand Personal Records Without Court Review. – Under the legislation the Attorney General would be granted the unilateral power to demand that any person – including a communications provider, internet company, landlord, or family member – assist with investigations of American citizens.
- Terminates Pending Legal Challenges and Immunizes Past Administration Legal Violations – The legislation would dismiss all pending challenges to the President's warrantless surveillance program – including an action in Federal Court in Michigan finding the warrantless surveillance program to be illegal. The legislation also would insulate relevant officials from liability for intentional wrongdoing.

The legislation is opposed by:

- 13 Former National Security Officials (including Reagan FBI Director William Sessions, and Reagan CIA and FBI Director William Webster)
- Computer and Communications Industry Association (including Microsoft, Verizon, Google and Intuit)
- 63 Law School Deans
- Center for Democracy and Technology
- Center for National Security Studies
- Open Society Institute
- ACLU

If you need additional background information, please contact House Judiciary Committee Minority Staff at x-56906 or HPSCI at x-57690.

Sincerely,

John Conyers, Jr.
Ranking Member
Judiciary Committee

Jane Harman
Ranking Member
Intelligence Committee